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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT : STEVEN H. WALKER, ET AL.

**RECEIVED**

SERIAL NUMBER : 09/896,505

DEC 12 2002

FILED : JUNE 29, 2001

**GROUP 3600**

FOR : STRUCTURAL METAL MEMBER FOR USE  
IN A ROOF TRUSS OR A FLOOR JOIST

ART UNIT : 3635

EXAMINER : BASIL S. KATCHEVES

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RULE 116 AMENDMENT

TO: ASSISTANT COMMISSIONER OF  
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WASHINGTON DC 20231

SIR:

CLIFFORD G. FRAYNE

Name of applicant, assignee, or  
Registered Representative

Clifford G. Frayne

Signature

Dec 4, 2002

Date of Signature

Responsive to the Office Action of October 10, 2002,

Applicant respectfully requests the Examiner to consider the  
following comments.

THE REJECTION

Claims 1 through 5 and 7 and 9 through 11 are rejected  
pursuant to 35 U.S.C. §103(a) as being unpatentable over Dolati

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RESPONSE  
BK 12/16/02

in view of Seccombe.

Claims 6 through 8 are rejected in view of Dolati on the premise that Dolati discloses an elongated structural member having mirror leg members terminating at their ends with outwardly extending hollow flanges.

#### DISCUSSION

Applicant respectfully submits that Dolati does not disclose, teach, nor suggest a hollow flange member, but rather an open flange member. There is no disclosure of Dolati of a margin member juxtaposed the leg member. The Examiner admits the lack of a margin member, but argues that the Succombe reference discloses an elongated metallic structural member having a third side flange member reference number 19 in Figure 1 which terminates with a margin member juxtaposed to the leg member. In light of this the Examiner argues that the claims of Applicant are rendered obvious.

Applicant respectfully submits that the combination of Succombe with Dolati does not render Applicant's structure obvious. The Examiner admits that Dolati does not disclose a third side flange member terminating with a margin member

juxtaposed to the leg. Neither does Succombe! The continuous leg member of Succombe commences with reference numeral 13, continues with reference numeral 12, reference numeral 19 and reference numeral 20. The margin of Succombe is at 17 and 23. Reference numeral 19 of Succombe is actually the leg member, and since Succombe has but one leg member, how can it be defined as being outwardly extending.

Still further as evidenced in Claim 2 which depends from Claim 1, the third flange side member is parallel to the first flange side member and the first flange side member is in a plane parallel with the web member. Such is not the case with Succombe.

Regarding Claims 3, 4, 5, 7, 9, and 10, the Examiner relies upon Dolati for a second and third web member with side flanges, reference Figure 4, reference numeral 43. The Examiner correctly points out that these web members are positioned on the left and right sides parallel to the legs. It is clear from the recitation of Applicant that this second web member is positioned parallel to the original web member. Dolati neither teaches nor discusses, nor as the Examiner pointed out in any of the text of Dolati that Dolati would have taught, suggested or disclosed the web member

as positioned by Applicant. For clarification, the fastener referred to by Applicant would be secured to the structural support by passing through webs 12, 112, and 252 as shown on Applicant's drawings, and then through the second planar web member 52, 152, and 212 as illustrated in Applicant's drawings. No such illustration is taught, disclosed, nor suggested by Dolati. As regards Claims 6 and 8, Dolati discloses an open flange, not a closed flange. The same deficiencies occur with Dolati and Seccombe regarding Claims 6 and 8 as already discussed.

Applicant has conducted an informal search with respect to trusses of the type claimed and attached hereto is an Information Disclosure Statement, together with cover pages of patents directed to light gauge metal truss systems in which there are two mirror image legs all having open flanges. It is respectfully submitted that it would not be obvious to one of ordinary skill in the art to make the combination of Dolati, a metallic member for a roof truss in which there are two parallel legs and two open flanges with Succombe in which there is only one leg.

In view of the foregoing comments, it is respectfully requested that the Examiner reconsider his rejection of the claims

and issue a Notice of Allowance. The undersigned, attorney for Applicant, would welcome a telephone conference call with the Examiner if certain issues remain open.

Respectfully submitted,

STEVEN H. WALKER, ET AL.- Applicant

By: 

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